



## MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Fish, followed by the Pledge of Allegiance.

## ROLL CALL

Present: COMMISSIONERS Bennett, Bogue, Caveglia, Halliday, Williams, Zermeño  
CHAIRPERSON Fish  
Absent: COMMISSIONER None

Staff Members Present: Anderly, Armes, Borger, Hutar, Jeffery, Looney, Woodbury

General Public Present: Approximately 12

## PUBLIC COMMENT

None made

## AGENDA

1. **Revocation of Use Permit Application No. 90-44 - K9-K9 Kennels (Applicant), James and Frances Dalton Trust (Owners):** Request for the Planning Commission to consider the revocation of a use permit for the operation of a dog kennel/training facility. *The project location is 4125 Breakwater Avenue, between Whitesell Street and Johnson Road in an Industrial (I) District.*
2. **Zone Change 99-190-03 - Bruce Creager of Barghausen Consulting Engineers for Costco Wholesale (Applicant) / The Price Club Company DBA Costco Wholesale (Owner):** Request to modify a planned development to construct a fully automated self-serve gasoline fueling facility for Costco members only as an accessory use to the Costco Business Center. *The project location is 22330 Hathaway Avenue on the southwest portion of the Costco Business Center, bounded by West A Street and Hathaway Avenue.*

**CONTINUED UNTIL NOVEMBER 18, 1999.**

## PUBLIC HEARINGS

- 1 **Revocation of Use Permit Application No. 90-44 - K9-K9 Kennels (Applicant), James and Frances Dalton Trust (Owners):** Request for the Planning Commission to consider the revocation of a use permit for the operation of a dog kennel/training facility. *The project location is 4125 Breakwater Avenue, between Whitesell Street and Johnson Road in an Industrial (I) District.*

Project Planner Hutar discussed the circumstances surrounding the proposed revocation of the use permit. She cited various violations including zoning and animal control issues. She indicated that Animal Control Manager Armes was available as well as Community Preservation Inspector Jeffery.

Commissioner Caveglia asked Animal Control Manager Arnes whether a number of the incidents listed weren't fairly common when dealing with kennel operators.

He responded that they don't get this many complaints.

Commissioner Bennett asked what the number of dogs allowed per run was. Animal Control Manager Arnes responded that there were no precise numbers in the permit. Professional standards are used as the guidelines.

Public Hearing Opened at 7:40 p.m.

Jack Van Voast, 4125 Breakwater, applicant, stated that he really did not think it would come to this kind of a hearing. He indicated that the bulk of the citations by the Animal Control were erroneous. His project is a very large site and there are numerous dogs on the premises. He then asked his attorney to speak for him. He added that he thought these problems would just go away. He indicated that he spends most of his time and money on rescuing and providing for lost dogs.

Hunter Pyle, 499 14<sup>th</sup> Street, Oakland, attorney for the applicant, distributed a multi-page response to the staff report. He said he was not only the attorney for K9-K9, he was a customer as well. He pointed out some critical points in the response, including the main issue of the trailers on the property, both of which were gone, as well as the storage sheds. He stated that under no circumstances would Mr. Van Voast have anyone living on the property illegally. He rebutted a number of other issues in the report and said that Mr. Van Voast had taken steps to correct any problems that had occurred. Mr. Pyle said that revoking the use permit would be excessive. Overall the operation is clean and in good shape.

Commissioner Halliday asked when the trailers were removed. Mr. Pyle responded that that second was removed this past week, the first more than six months ago.

Aaron Fox, 52 E. 41<sup>st</sup> Pl #12, San Mateo, works next door to K9-K9. He indicated that an employee of his might have been responsible for one of the citations for a loose dog. He testified that in his observation, the kennel was a good business and Mr. Van Voast was a good neighbor.

Kimberly K. Wylie, 6369 B Joaquin Murieta, Newark, an employee, said she has always worked with animals and would never work in a place that was cruel to or mistreated animals in any way. She said that the animals were happy to come to this kennel, and she was happy to work there. She added that Mr. Van Voast assumes the responsibility for many strays and would never mistreat animals.

Nicole Row, 4570 Evelence Court, Fremont, explained two of the items in the report. She gave a detailed report as the employee who spoke with the woman in item number 15 who allegedly abandoned her dog, and how they handled the situation. She also described a second incident where a child was bitten after she repeatedly told her not to touch the fence.

Lori Ford, 6231 Tourraine Drive, Newark, another employee, explained a few more of the incidents described in the report. She said she would never work in a business that neglected or abused animals. She added that the report of an attack by a pit-bull might have been the animal at the neighboring business.

Rhonda Tappan, 3139 Caramello Court, Pleasanton, said she works at St. Rose Hospital and



has used K9-K9 for a number of years. She cited recent news reports of animal problems at the Humane Society as well as public zoos. She indicated that, like those facilities, Mr. Van Voast should be encouraged to correct his problems and not shut down. She added that she believed the personnel at K9-K9 had saved the life of her dog when she had a severe medical problem late at night and they recognized the problem and the dog was treated.

Robert Murry, 2020 Foothill Boulevard, Oakland, also has worked at K9-K9 for six years. He said it is a great place.

Chelsea Madison, 4386 Detroit Avenue, Oakland, works as a volunteer with the Animal Rescue. She said they are able to save dogs with the help of K9-K9. The people are kind and loving. Jack Van Voast pays for their keep out of his own pocket, their food, their neutering and spaying. She has never seen any abuse of animals. It would be a real shame to close it down.

Laurie Burke, 5747 Grisborne Avenue, Oakland, also on the Board of the Animal Rescue said you can not find these kinds of facilities in most places. She was very supportive of K9-K9, adding it is in a great location. She would still recommend them.

Astrid Dahlman, Oakland, also involved in the Animal Rescue work said this would be a tremendous loss to the rescue community.

Kathy Marks, 3772 Cannon Avenue, Oakland, another Animal Rescue volunteer said dogs brought to this kennel are given love and attention and do not seem like the same animals. She could not imagine anyone would complain about giving dogs a good life. She described Mr. Van Voast as a man who runs his business with a heart. He may have made some mistakes in the past but we all make mistakes.

Public Hearing Closed at 8:29 p.m.

When asked by Commissioner Caveglia whether the trailers were gone, Mr. Jeffery responded that he could not vouch for it personally but had a document in front of him saying that as of the second of the month they were both gone. He said his last visit to the site was just prior to the date of the last scheduled hearing.

Commissioner Caveglia said he was disappointed at the last hearing when permission for the trailers to remain was disregarded. He said Mr. Van Voast lives in a world of dogs, loves dogs and that he does not believe the bureaucratic rules apply to him. He was amazed at the number of people who would testify in support of this man. He said it is not an easy job he is doing. He moved that the permit not be revoked, now that the trailers are gone.

The motion was seconded by Commissioner Zermeno.

Commissioner Halliday asked if the trailers were just removed, she was not sure whether the operation can continue without this housing for staff. She asked Mr. Van Voast for further information.

He confirmed that he would be moving back into the living space on the premises and would manage.

Commissioner Williams said we have a responsibility to the people of this City. The appellant has to realize that he is living in a society with laws and rules. Commissioner Williams added that he would like to hear more from those customers who actually use the service and expressed dismay that he had failed to pay court imposed fines. Mr. Van Voast has had ample time to obey the decisions that have been reached through the City and the Courts. He agreed that the service was needed but added no one is above the law.

Commissioner Bennett asked whether it is legal for Mr. Van Voast to live on the property.

Planning Director Anderly responded that he does have living quarter on the premises for an attendant and that the situation would be ancillary to the kennel operation.

Commissioner Bennett continued that it was a difficult motion to support but agreed it is a necessary service. She said she would like to see modifications to bring the permit into compliance. She then asked for more information regarding the permanency of the revocation process.

Planning Director Anderly responded that it would be appealed to the City Council within 10 days and if they upheld it, he could not reapply for a permit for a full year. She added, that is not to assume he would continue to operate.

Commissioner Zermeño stated he would hope Mr. Van Voast would have learned his lesson through this process. He suggested that the City monitor the business

Commissioner Caveglia added that Mr. Van Voast had apparently recognized the seriousness of the process since he had already taken steps to try to change the text amendment to permit his trailers, and when he failed, he did get rid of them. He added that it is not easy to get rid of something like that. He agreed that the process has gone on for quite awhile. He has responded as he has seen fit.

Commissioner Bogue said he could not support the motion as stated. The trailers were removed only at the last moment. If they were to review the permit, no date was set for reporting back to the Commission.

Commissioner Caveglia asked about a six-month condition for review.

Commissioner Bennett asked the Assistant City Attorney for guidelines on what alternative action the Commission might take in this case.

Assistant City Attorney Borger listed various options.

Commissioner Williams stated that these were alternatives to consider. He said he would be willing to agree to allowing a 6-month extension to indicate that the Commission's trust is well placed. He moved for a friendly amendment to further condition the Use Permit. Commissioner Caveglia declined the addition.

Chairperson Fish said he would support the motion since he was initially concerned with how Mr. Van Voast was caring for the animals in his custody.



The motion failed by the following vote:

AYES: COMMISSIONERS Caveglia, Zermeño  
CHAIRPERSON Fish  
NOES: COMMISSIONERS Bennett, Bogue, Halliday,  
Williams  
ABSENT: None  
ABSTAIN: None

Commissioner Williams moved, seconded by Commissioner Halliday, to revoke the action for six-months and review the Use Permit at that time requiring the fines to be paid, the trailers will still be off the property, and the City's original terms and conditions to be in effect.

Commissioner Bennett asked for a friendly amendment to require the appellant to pay the \$1,300 outstanding fines owed to the Court within 30-60 days. This was not agreed to.

Planning Director Anderly said the fees would go to the DMV for payment when Mr. Van Voast tries to register his vehicle.

Commissioner Williams asked that, in all fairness to Mr. Van Voast, that he begin to work more closely with staff.

The motion passed unanimously.

2. **Zone Change 99-190-03 – Bruce Creager of Barghausen Consulting Engineers for Costco Wholesale (Applicant) / The Price Club Company DBA Costco Wholesale (Owner):** Request to modify a planned development to construct a fully automated self-serve gasoline fueling facility for Costco members only as an accessory use to the Costco Business Center. *The project location is 22330 Hathaway Avenue on the southwest portion of the Costco Business Center, bounded by West A Street and Hathaway Avenue.*

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#### **ADDITIONAL MATTERS**

3. Oral Report on Planning and Zoning Matters

There were no staff reports.

4. Commissioners' Announcements, Referrals

Commissioner Caveglia asked about an article in the California League of Cities bulletin indicating that the Youth Commissioners in Claremont were hired to work on building the skate park and could that be done in Hayward as well.

Commissioner Fish added that Oakland has a policy of hiring residents first for projects. Could that be applied in Hayward as well?

Planning Manager Anderly said these would be investigated.

Commissioner Zermeno asked for further clarification on the St. Vincent de Paul cottages. He was told they were resolving geotechnical issues and weren't ready to be heard by the Commission at this time.

#### **MINUTES**

- October 14, 1999 - Approved

#### **ADJOURNMENT**

The meeting was adjourned by Chairperson Fish at 9:07 p.m.

#### **APPROVED:**

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Barbara Halliday, Secretary  
Planning Commission

#### **ATTEST:**

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Edith Looney  
Commission Secretary